 <b>VERMONT</b> DEPARTMENT FOR CHILDREN AND FAMILIES <b>Family Services Policy Manual</b>		<h1>80</h1>
Chapter:	Working with Families in Court	
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Approved:	Cynthia K. Walcott, Deputy Commissioner	Draft: 11/14/08
Supersedes:	Family Services Policy 80 Working with Families in Court: Definitions	Dated:

## Purpose

To provide uniform definitions of terms for use in this section of the manual. Please also see the policies that follow for more information.

## Definitions

See also Child Abuse and Neglect: Definitions (Policy #50)

**Care provider** means a person other than a parent, guardian, or custodian who is providing the child with routine daily care but to whom custody rights have not been transferred by a court. (33 VSA 5102 (1))

**Child** is an individual under the age of eighteen years (see also Delinquent Child, below).

**Child in need of care or supervision** or **CHINS** (33 VSA §5102(A)(3)) is a child who:

- A) has been abandoned or abused by the child's parent, guardian, or custodian. A person is considered to have abandoned a child if the person is: unwilling to have physical custody of the child; unable, unwilling, or has failed to make appropriate arrangements for the child's care; unable to have physical custody of the child and has not arranged or cannot arrange for the safe and appropriate care of the child; or has left the child with a care provider and the care provider is unwilling or unable to provide care or support for the child, the whereabouts of the person are unknown, and reasonable efforts to locate the person have been unsuccessful.
- B) is without proper parental care or subsistence, education, medical, or other care necessary for his or her well-being;
- C) is without or beyond the control of his or her parent, guardian, or custodian; or
- D) is habitually and without justification truant from compulsory school attendance

**Conditional custody order** means an order issued by the court in a juvenile proceeding conferring legal custody of a child to a parent, guardian, relative, or a person with a significant relationship with the child subject to such conditions and limitations as the court may deem necessary to provide for the safety and welfare of the child. Any conditions and limitations shall apply only to the individual to whom custody is granted. (33 VSA §5102(A)(5))

**Custodial parent** means a parent who, at the time of the commencement of the juvenile proceeding, has the right and responsibility to provide the routine daily care and control of the child. The rights of the custodial parent may be held solely or shared and may be subject to the court-ordered right of the other parent to have contact with the child. (33 VSA §5102(A)(7))

**Custodian** means a person other than a parent or legal guardian to whom legal custody of the child has been given by order of a Vermont family or probate court or a similar court in another jurisdiction. (33 VSA §5102(A)(8))

**Delinquent act** (33 VSA §5102(A)(9)) means an act designated a crime under the laws of this state, or of another state if the act occurred in another state, or under federal law except that certain traffic offenses committed by a youth after becoming sixteen years of age and certain snowmobile and motorboat offenses are not delinquent acts .

**Delinquent child** means a child who has been adjudicated to have committed a delinquent act. (33 VSA §5102(A)(10)). A child may be adjudicated for delinquency after becoming ten years of age and prior to becoming 18 years of age. However:

- (i) an individual who is alleged to have committed an act specified in subsection 5204(a) of this title after attaining the age of 10 but not the age of 14 may be treated as an adult as provided therein;
- (ii) an individual who is alleged to have committed an act specified in subsection 5204(a) of this title after attaining the age of 14 but not the age of 16 shall be subject to criminal proceedings as in cases commenced against adults, unless transferred to the court in accordance with the juvenile judicial proceedings chapters;
- (iii) an individual who is alleged to have committed an act before attaining the age of 10 which would be murder as defined in section 2301 of Title 13 if committed by an adult may be subject to delinquency proceedings; and
- (iv) an individual may be considered a child for the period of time the court retains jurisdiction over youthful offenders.

**Disposition Case Plan** is a report to the juvenile court due no later than 28 days from the date of the finding by the court that a child is in need of care or supervision or delinquent, which includes:

- 1) A permanency goal
- 2) An assessment of the child's medical, psychological, social, educational, and vocational needs.
- 3) A description of the child's home, school, community, and current living situation.

- 4) An assessment of the family's strengths and risk factors, including a consideration of the needs of children and parents with disabilities, provided that the child's needs are given primary
- 5) A statement of family changes needed to correct the problems necessitating state intervention, with timetables for accomplishing the changes.
- 6) A recommendation with respect to legal custody for the child and a recommendation for parent-child contact and sibling contact, if appropriate.
- 7) A plan of services that shall describe the responsibilities of the child, the parents, guardian, or custodian, the department, other family members, and treatment providers, including a description of the services required to achieve the permanency goal. The plan shall also address the minimum frequency of contact between the social worker assigned to the case and the family.
- 8) A request for child support.
- 9) Notice to the parents that failure to accomplish substantially the objectives stated in the plan within the time frames established may result in termination of parental rights.

**Emergency Care Order** is an order regarding custody and placement issued by the juvenile court when a child:

- has committed a delinquent act;
- is in immediate danger from his [or her] surroundings and removal from the home is necessary for the child's protection; or
- has run away.


**Findings and Order** is a document issued by the juvenile court following hearing on the merits of a juvenile petition that includes findings of fact specifying the basis for its determination that a child is in need of care and supervision or a delinquent child.

**Guardian** means a person who, at the time of the commencement of the juvenile judicial proceeding, has legally established rights to a child pursuant to an order of a Vermont probate court or a similar court in another jurisdiction. (33 VSA §5502 (a) (12)).

**Indian Child** is any unmarried person under the age of eighteen who is (a) a member of an Indian tribe or (b) is eligible for membership in an Indian tribe and is the biological child of a member of the Indian tribe.

**Indian Tribe** is any Indian tribe, band, nation, or other organized group community of Indians recognized as eligible for the services provided to Indians by the Secretary of the Interior because of their status as Indians, including any Alaska Native village as defined in federal law.

**Indian Child Welfare Act** mean a federal Indian Child Welfare Act passed in 1978 to protect

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the best interests of Native American children who are members or eligible for membership in federally recognized tribes. The Act affirms the right of tribes to determine the future of their children, recognizing that state courts often fail to recognize the essential tribal relationships of native people and the cultural and social standards important to them.

**Legal custody** (33 VSA §5502 (a) (16)). means the legal status created by order of the court under the authority of the juvenile judicial proceedings chapters which invests in a party to a juvenile proceeding or another person the following rights and responsibilities:

- (i) The right to routine daily care and control of the child and to determine where and with whom the child shall live.
- (ii) The authority to consent to major medical, psychiatric, and surgical treatment for a child.
- (iii) The responsibility to protect and supervise a child and to provide the child with food, shelter, education, and ordinary medical care.
- (iv) The authority to make decisions which concern the child and are of substantial legal significance, including the authority to consent to marriage and enlistment in the armed forces of the United States, and the authority to represent the child in legal actions.

If legal custody is transferred to a person other than a parent, the rights, duties, and responsibilities so transferred do not include the residual parental rights of the parents.


**Noncustodial parent** means a parent who is not a custodial parent at the time of the commencement of the juvenile proceeding. (33 VSA §5502 (a) (18)).

**Parent-child contact** means the right of a parent to have visitation with the child by court order. (33 VSA §5502 (a) (21)).

**Probation** means the legal status created by order of the family court in proceedings involving a violation of law whereby a delinquent child is subject to supervision by the department under conditions specified in the court's juvenile probation certificate and subject to return to and change of legal status by the family court for violation of conditions of probation at any time during the period of probation. (33 VSA §5502 (a) (23)).

**Probation Certificate** is a juvenile court form issued when a youth is placed on probation that spells out the behavior the court requires of the youth while subject to the court's disposition order of juvenile probation. (33 VSA § 5263)

**Probation Detention** is legal mechanism by which a juvenile probation officer may detain a juvenile probationer or authorize any law enforcement officer to do so by giving the officer a "written statement" setting forth that the juvenile has, in the judgment of the juvenile probation officer, violated a condition of probation. (33 VSA §5266)

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**Protective order** means an order restraining or otherwise controlling the conduct of a person if the court finds that such conduct is or may be detrimental or harmful to a child. (33 VSA §5515)

**Protective supervision** means the authority granted by the court to the department in a juvenile proceeding to take reasonable steps to monitor compliance with the court's conditional custody order, including unannounced visits to the home in which the child currently resides. (33 VSA §5502 (a) (24)).

**Reasonable Efforts** means the exercise of due diligence by the department to use appropriate and available services to prevent unnecessary removal of the child from the home or to finalize a permanency plan. When making the reasonable efforts determination, the court may find that no services were appropriate or reasonable considering the circumstances. (33 VSA §5502 (a) (25)).

**Residual parental rights and responsibilities** means those rights and responsibilities remaining with the parent after the transfer of legal custody of the child, including the right to reasonable contact with the child, the responsibility for support, and the right to consent to adoption. (33 VSA §5502 (a) (26)).

**Shelter** means a shelter designated by the commissioner where a child taken into custody as a runaway may be held for a period not to exceed seven days. . (33 VSA §5502 (a) (27)).

**Temporary Care Hearing** is a hearing held within 72 hours of the issuance of an emergency care order or conditional custody order under 33 VSA 5253, to consider whether custody can be returned to the child's custodial parent, guardian, or custodian, or if the court must issue a **temporary care order** because:


- 1) The child cannot be controlled at home and is at risk of harm to self or others.
- 2) Continued residence in the home will not protect the community because of the serious and dangerous nature of the act the child is alleged to have committed or
- 3) The child's welfare is otherwise endangered.

State holidays shall be excluded from the computation of 72 hours.

**Termination of Jurisdiction** is an order terminating the juvenile court's jurisdiction over a child. No further actions can be taken by the court in the absence of a new petition.

**Vacating an Order** is completely setting aside an order. The authority and/or responsibility of a party under the order ends.

**Uniform Child Custody Jurisdiction Act** means

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**Voluntary Care** is the voluntary, informal transfer of care and custody of a child to the department under conditions agreed upon by the parents and the department, as articulated in a Voluntary Care Agreement. (33 VSA §4903 (4)).

**Youth** is a person who is the subject of a motion for youthful offender status or who has been granted youthful offender status. (33 VSA §5502 (a) (28)).